IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

COMPANY PETITION NO.221 OF 2005

CONNECTED WITH

COMPANY APPLICATION NO.162 OF 2005

Mechanalysis (India) Ltd. ...Petitioner

ALONG WITH

COMPANY PETITION NO.222 OF 2005

CONNECTED WITH

COMPANY APPLICATION NO.163 OF 2005

Conin Engineering Ltd. ...Petitioner

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Mr.Atul Damle for Petitioner.

Mr.C.J.Joy with Mr.R.C.Master & Mr.M.M.Goswami for Regional Director.

Mr.R.D.Chaturvedi for Intervening Creditor.

Mr.S.C.Gupta, Official Liquidator (in CP 221/05).

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CORAM: A.M.KHANWILKAR, J.

AUGUST 12, 2005.

P.C.

1. Heard Counsel for the parties. Perused

the affidavits filed by the respective parties.

2. Representative of the Regional Director is present in Court and has informed through his Counsel that all formalities are complied with and the Regional Director has no objection for acceding to the request made by the Petitioner, provided the Petitioner complies with the requirements stated in Paras 4, 5 and 6 of the affidavit of the Regional Director.

3. Counsel for the Petitioner, on instructions of the authorised Officer of the Petitioner states that the Petitioner undertakes to comply with the said requirements before the Scheme is given effect to. That assurance is accepted.

4. Accordingly, the Official Liquidator has no objection for accepting the proposed scheme. The only objection has come from M/s.Rockwell Automation India Limited. The said M/s.Rockwell Automation India Ltd. are creditors of the Petitioner Company, having supplied goods as per the orders placed by the Company. The apprehension

expressed by M/s.Rockwell is that form ‘C’ issued by the Petitioner may not be valid because endorsement regarding the VAT entry number is not printed on the ‘C’ form as supplied. However, Counsel for the said Creditor is not in a position to point out any provision or circular issued by any competent authority requiring mentioning of VAT registration number on the ‘C’ form.

5. In the circumstances, this objection cannot be the basis to stultify the proposed scheme. In my opinion, the apprehension of M/s.Rockwell can be taken care of on the basis of assurance given by the Petitioner through Counsel, on instructions of the authorised Officer of the Petitioner that as and when such request is made on the basis of objection raised by any competent authority with regard to the ‘C’ form as issued, appropriate remedial measures would be taken to provide fresh ‘C’ form or to make necessary endorsement on the ‘C’ form already issued.

6. In view of this assurance, nothing survives in the objection taken at the instance of

M/s.Rockwell.

7. There is one more objection taken on behalf of M/s.Rockwell. It is apprehended that 30 postdated cheques have been issued by the Petitioner in favour of M/s.Rockwell Automation India Ltd. spread over from 18th August 2004 till 10th January 2005 for different denominations. If the proposed scheme is given effect to, the transferee company will not discharge the obligation arising out of the postdated cheques. This apprehension is misplaced. The proposed scheme makes suitable arrangement in this behalf. Besides, affidavit has been filed on behalf of the Petitioner sworn by Mr.Peter W.Hills, authorised Officer of the Petitioner clarifying the position in terms of Para 5 of the Affidavit. In my opinion, assurance given in Para 5 of this affidavit is sufficient to dispose of the apprehension expressed on behalf of M/s.Rockwell.

8. In addition, Petitioner through Counsel, on instructions of the Authorised Officer of the

Petitioner, who is present in Court, assures that the post dated cheques issued by the Petitioner in favour of M/s.Rockwell, will be honoured and stop payment instructions will not be issued unless necessary in terms of the contractual obligations of the parties. That assurance is accepted.

9. Accordingly, Petition No.221/2005 is allowed in terms of prayer clauses (a) to (i) and Petition No.222 of 2005 is allowed in terms of prayer clauses (a) to (h) on the aforesaid conditions.

A.M.KHANWILKAR, J.